

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COUNTY OF NEWPORT

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the **Tiverton High School Auditorium**, 100 North Brayton Road, on the 28th day of July 2008 A.D. at 7:00 p.m.

President Durfee opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	Joanne M. Arruda	Louise Durfee
	Donald Bollin	Jay Edwards
	Paul E. Carroll- Absent	Brian A. Medeiros
	Hannibal F. Costa	

Town Administrator, James C. Goncalo  
Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

**BUSINESS BROUGHT BEFORE THE COUNCIL**  
**CONSENT AGENDA**

**PUBLIC HEARINGS- ADVERTISED**

**Proposed Charter Amendments for November 2008 Ballot**

Council President Durfee proposed the order in which the amendments should be taken, with the exception of the proposals for the FTM, and take those as a group. Question arose as to whether the vote would occur after each section. Cecil Leonard presented two documents, Sec 1205 and Constitution of State of RI Art XIII related authority for charter amendments with a memo referring to the powers of the local Board of Canvassers and the role of the Council regarding amendments to the Charter. President Durfee asked Town Solicitor Andy Teitz if he wanted to address this matter.

Solicitor Teitz opined the Town Council has sole authority to decide what amendments will go on the ballot. Where there has been a Charter Review Commission, Council should consider their proposals; but up to the Council to approve or not approve the substance of their proposals and have the ability to add proposals of their own. The State Constitution and the Town Charter grants that authority to the Town Council, same as essentially said in memorandum of August 2006 presented by Mr. Leonard..

President Durfee remarked needed to agree on procedure; will take Charter Commission proposal for FTM, Medeiros proposal then Arruda proposal. Will listen to public comments first, close that portion and then vote. Will then follow order of additional proposals.

Opened the public portion of the meeting and asked for comments with regard to question #1, proposal of CRC regarding All Day Financial Referendum.

**Question 1: Shall article III and all related references of the Town of Tiverton Charter be amended to replace the Financial Town Meeting (FTM) with an All Day Referendum (AFDR) to approve or reject a proposed annual tax levy?**

Ed Roderick commended the CRC, however, based on the way it is presently written unable to support it. Doesn't allow the electorate to impact the budget Would be difficult to get 5% of the electorate to make a change, don't think would happen, does not prefer up/down vote.

Janet Kosinski, Tiverton Library stated it would be the end of library services if just one vote of no. If line items are being looked at what happens to the services that have no contractual agreement to protect them, like the senior services. An all day referendum addresses a fixed budget.

Garry Plunkett had similar concerns. In some ways this referendum seems overly complex yet too simple. Real precise process is so specific and detailed, this seems to invite litigation. Up/down, no flexibility. At the FTM there is a back and forth debate and adjustments can be made. If the vote is down, sees tremendous problems. What if the CPI changes and is 8%, but there's a cap of 4%. No time if Council called emergency to have a special referendum. Sees lots of little details that need to be addressed.

John Foley, prior Charter Review member, appreciates the work done. This proposal based on a 4/3 vote of the Charter Commission, not a clear majority, does not show consensus on such a fundamental change. As an attorney looks like a litigation bomb ready to explode, so many different points any disgruntled person could seize on and halt. Lots of vague provisions in this proposal, who provides the summary and what summary shall be provided. Does it mean the voters know what happens if items are cut. Very little guidance as to what will happen. At FTM there is discussion, has the same concerns as Mr. Plunkett, too inflexible.  
Letter to the editor suggested a tax revolt, to simply refuse to pay. Shows FTM no longer works and how divisive this has become and shows a misunderstanding of Town government. Given the complexities of the budget process, feels should be left to Town government. Process of what occurred at the FTM has degenerated. Have to be dissatisfied with the process, urged the Council to give voter's status quo or a budget that is generated by the Council. Proposal is flawed in concept and execution. Citizen's override occurs at the booth in November.

Richard Joslin, a member of the Charter Review Commission, missed the 4/3 vote on this question, would have voted no, agreed with Mr. Foley and his analysis of the all day referenda.. Feels participation would be greater because it would cover a thirteen-hour period. Feels this is too complex, potential for litigation, by it's entire nature it increases power of the budget

committee beyond what it should be, decreases power of Town Council, elected people should control budget. Felt the job of the Charter Commission was to come up with an alternative to the FTM, which they did, cannot support this proposal. People at FTM did not realize a no vote could cripple the Town.

Roger Gauthier-Thanked the commission thought they would come up with more than one proposal. If this proposal is to go forward it needs to be corrected. Budget process should have a yes or no vote on each component, talk about multiple tax levies, inconsistent with language, cap of 4% or CPI if lower. If budget increase was 2%, new budget would be higher than the proposed budget, should be lower of CPI or budget, error there. Several items in this proposal should be corrected if the Council decided to go forward.

Richard Joslin, member of the CRC not in support of ADR. Originally thought would bring out more voters with less intimidation. Now feel too complex with potential for litigation. Was unable to attend that meeting of vote, but would have voted no to this proposal, feel should be left to Council for budget. CRC was very fractured and disagreed on many items, but worked hard and tried.

Cecil Leonard, Chair of the CRC disappointed with attendance turnout. In 2006 some 3000 people voted for a proposal, not multiple proposals. Voted over several meetings. FTM is a direct vote of the people, citizens have direct input. FTM has flaws, not as democratic as it appears. Most people who come have little knowledge of what is going on. Requested to enter into the record blogosphere article by Justin Katz published May 28 documenting May 28<sup>th</sup> meeting. No finality to all day referendum, section 309 does not address FTM goes beyond two meetings. State Law according to Teitz says one budget must be proposed. Some say a no vote at all day would be a disaster. No vote at FTM also has potential for disaster. To summarize, current FTM has one overriding positive thing, people have the right to vote. Mr. Leonard quoted Councilor Medeiros who said the FTM was a disaster waiting to happen. This Proposal has far more merit, is not as complicated as people make it out to be. Requested an email from Mr. Frank Marshall to be entered into the record. President Durfee acknowledged receipt.

Kathryn Ryan- Thanked the Council follows the Budget Committee, concerned that a few make decisions for 15,000 at a FTM. Concerned with keeping essential services like senior center and library.

Tom Ramotowski, not a fan of the current FTM, objects to the three proposals. Believes those who pay must preserve their say. Four major flaws. All of these various setups may not result in a firm final decision. Design the system so we have a definite budget and not have to come back over several nights. Secondly, all happen too late in the year. Three, voting for a budget is a rubber stamp tax rate, set rate first then decide on budget. Fourth, voters are given a long docket, no explanation on what is going on. Likes all day referendum, one ballot, one person. Suggests ballot in November time frame then set budget.

James Pelletier, incumbent upon all to move the process. Likes the idea of ADR, preserves secret ballot with one ballot for one person. Thanked CRC.

Chris Cotta, Chair of the Budget Committee, applauds work of the CRC, to go through a controversial subject, doesn't recommend ADR. First, page 2 speaks to what goes on the 5 segments of budget and why Treasurer and Clerk budgets are reviewed. Committee has no authority there, contrary to page 11. Mr. Cotta having been involved last 15 years in the budget process, no vote would be extremely detrimental, easy to go to polls to say no. You have a legal obligation and responsibility to pay and not detract services. Recognizes need to pay bills, extending debt service falls on municipal side of budget, very concerned about this proposal. Current process has the ability to make additional financial proposals, insulting to take right away from taxpayer group.

Process for the B/C starts mid January, 30 meetings, 60 days, volunteers don't get paid, yet expend a lot of time and effort, to be sure services are what community can afford. All hearings are open. Believes Wednesday night is a bad night, maybe Saturday. Maybe a non binding resolution on ballot asking should take Council take over budget process. People need to become educated before the meeting. Thinks 60 days is unrealistic for any Budget Committee for 30 million in expenditures. Page 5-6 doesn't understand what this means. Various resolutions predicted ,no mechanism for resolutions on this all day referendum. Language very ambiguous, page 2 says tax resolution needs to be proposed, doesn't say who prepares, whose job, no direction. Page 5, item 9, B/C shall hold an advertised....and what is language. Agrees with Foley, urges Council not to adopt. Please consider Arruda and Medeiros proposals.

Mike Burk, excellent points by Mr. Cotta and Mr. Foley, On page 2, item C, votes estimate of property tax rate, but on page 6 within 5 days Council will meet to vote on budget. Not sure if estimate is tax rate. Section 303 not less than, somewhere around November, seems final budget has to be to Clerk no later than 28 days, if we find extra monies can't submit that, language on page 2 does not recognize 30/50. If there is a desire to move ahead with these "sunset clauses", if problems arise, to revert back to FTM or some other structure.

At this time Council President Durfee asked if anyone else wished to be heard on the Charter Commission proposal. Being careful, no other comments, moved to discuss Medeiros proposal #10.

Solicitor Teitz was presented with a letter by James Amarantes alleges complaint discussing the Medeiros proposal is Open Meeting violation on grounds was not properly added to agenda at previous meeting.. Just received, was not present at that meeting and have not had chance to reviewed video. Alleges not a specific vote to add to agenda, does not believe a fatal defect. Open meeting law requires notice of what will be heard, and if you had voted final actions such as to put on ballot could have been open to challenge. Remedy of OM violation is the action becomes a nullity. Since all you did was put on agenda for Public Hearing, advertised properly in detail, people present to speak, see no reason why this item cannot go forward.

Peter Moniz, opposed to ADR, feels very few people will vote. Need to modernize, in favor of Council responsible for budget. Roger Gauthier returned to the microphone, in general FTM, big issue, difficult to come up with an alternative that makes sense. Not sure enough time spent looking at alternatives but feel better than ADR.

Justin Katz regarding Mr. Medeiros's proposal, some talk about divisive rift FTM caused, doesn't think legislation only process would exasperate that rift. Secondly want to remind only voting to put on ballot, not pass proposals. Review committee held meetings, officials should have hammered out there. If something totally new comes about, what is point of commission, takes away democratic process.

Cecil Leonard, putting Council in charge of the budget, only one of four elements, School Committee, Clerk, Treasurer. Objection to one component in charge of whole budget. Don't feel Council has time or experience. Most serious flaw, takes away direct say of people.

President Durfee asked for any other comments on proposal. Anyone else wish to be heard?

Councilor Medeiros reiterated that this proposal in no way denigrates the work of the Charter Commission. Wants what is best for the Town. Majority of people do not turn out for the FTM, shows they don't want the responsibility. This system sets accountability, can vote Councilors out, have recall ability. Includes citizen's petition as a failsafe. Not a unilateral process, Council works with the School Committee, Budget Committee is the watchdog. If not happy can run for office or vote for different people. Can decide for referendum but not forced to. Will give decision to voters in November.

President Durfee again requested any other comments, then started the discussion on Councilor Arruda's proposal, Question #11

#### Charter Amendment to Article III- Financial Town Meeting - Changing Day

Councilor Arruda's proposal is to move the FTM from the third Wednesday to the second Saturday simply to attract more people. Can address secret ballot to get systems in place to make for a more efficient process. Solicitor Teitz handed Council a memo addressing language "if the FTM is retained". Also suggests recess information should be in section 309 where currently outlined.

Chris Cotta fully endorses this proposal, small changes better, this method has stood test of time and process allows people to voice concerns. Cecil Leonard thought moving the meeting would guarantee more problems, feels this is a step backwards. Many people have other interests on Saturdays in the spring. Janet Kosinski- concerns on Saturday many families have sports, not sure this is the solution.

At this time Council President Durfee asked for further comments. Point with three proposals before Council, need vote to proceed to ballot.

Councilor Bollin proposed that all of the questions should go forward, even though he was not in favor of Question #1, felt the voters should decide. Councilor Edwards felt it was irresponsible to let ADFR proposal go on the ballot. Councilor Medeiros also had a problem with this question, is fatally flawed and cannot support this proposal. Councilor Arruda agreed, sat in on many meetings and on average 2 people were at the meetings. Felt the CRC should have had public hearings of their own so more ideas could be vetted. Torn about this proposal, a no vote would put the Town in a tailspin. Councilor Arruda cannot support it. Councilor Costa felt it was a large and complex proposal, wondered about the format. Concerned about time frame, we keep removing items from the Council yet still hold them responsible. Should use this question to improve the process.

Councilor President Durfee stated the FTM perplexes everyone. Council tries to put best before citizens, respects CRC but feels this proposal is goldmine for lawyers. Internal inconsistencies. Town has community obligations whether agree with them or not. Trying to do most prudently financial obligations. A no vote means we will have to cut services that are provided by least able. Can't support this proposal.

Cecil Leonard complemented all his colleagues on the CRC. Wished to address Madam President's stating that a no vote at the FTM like the one on May 21 will be a disaster. Feel misinformation about the ADFR no vote would be disaster, act of the matter is financial situation is grim and the Town will have to make choices.

President Durfee stated the FTM provides flexibility if you want to cut or increase that yes or no vote does not provide. Laura Epke, from the CRC said the three ballot question do not all reference sections. Solicitor Teitz stated we need exact language for the questions, would not have to have section numbers. All text changes would be available at polls.

Sally Black, attended all the meetings, some great ideas, thought the idea of an ADFR was good but for three words "with no exceptions". Would like to support but not with these three words.

#### **Council President Durfee at 9:15 closed the Public Hearing for these three questions.**

Councilor Costa proposed a motion to forward with questions 10 and 11 to ballot and not Question #1. Said the Town is bound to establish a process since some detail needs to be reviewed and modified. Motioned to adopt the process with questions 10 and 11, not question 1 and the procedures be observed for adoption by the Council. Withdrawn.

President Durfee asked for a vote on this request as worded. Councilor Costa motioned to move question 10 and 11 to the ballot and to retain Question #1 for future use. Councilor Medeiros seconded the motion with the recommended language changes from the Town Solicitor be included.

Councilor Bollin stated the people should decide on the proposals; have from now to November to explain positions. Any proposal that passes will have problems. All questions should be on the ballot, voters have a right to decide for themselves.

The motion passed on a vote of 5-1, Councilor Bollin opposed. (Mr. Carroll absent)

#### **President Durfee opened the Public Hearing for Question #2:**

#### **Shall Section 104 of the Tiverton Town Charter be amended to allow the Town of Tiverton to enter into agreements with any other state of the United States of America, or with any political subdivision thereof, for services and or functions?**

There being no comments, Councilor Bollin motioned to close the Public Hearing on this section, seconded by Councilor Costa, the motion passed unanimously. Councilor Bollin then motioned to include Question #2 on the ballot. Seconded by Councilor Costa the motion passed unanimously.

#### **President Durfee opened the Public Hearing for Question #3**

**Shall a new Section 204 entitled “Transfer of Town Land be added to the Charter to require that the sale of any land owned by the Town of Tiverton be approved by voters?”**

Solicitor Teitz as stated in his memo to the Council suggested the following change to Section 204:

Solicitor Teitz read language change

This transfer of any property rights in and /or ownership of any parcel/lot or tract of land owned by the Town of Tiverton as of November 5 ,2008, except for parcels in the Industrial Park and transfers pursuant to RI General Law 44-9-18-.3, must be approved by a vote of the electors of the Town of Tiverton, **either at a Financial Town Meeting, Special Meeting or a Referendum.** Any such approval shall expire within five (5) years. Leasing of Town property for a period of ten (10) years shall not constitute a transfer of property, provided that at the end of the leasing period the Town retains sole right to renew, continue, or terminate the lease. This section shall not prohibit the Town Council from transferring property rights for the purpose of restricting use of any parcel/lot of land **for consideration or preservation purposes, or** in connection with the provision of public utilities or similar services.

Councilor Bollin motioned to close the Public Hearing for Question #2, seconded by Councilor Costa the motion passed unanimously. Councilor Bollin motioned approve put on the ballot with language suggested by Town Solicitor, seconded by Councilor Edwards the motion passed unanimously. Question 3 moves to ballot.

**President Durfee opened the Public Hearing for Question #4:**

**Shall Section 310 of the Tiverton Town Charter be amended to clarify how the minimum reserve balance is to be managed?**

Chris Cotta concerned the second line of the explanation section eliminating language of operating annual budget. Does not clearly say which budget is being looked at. Also says at any time Treasurer can be asked if have 3% of current operating budget, should be based on prior audited. What do we do in case of emergency with need to spend money would the Town have to call for an election?

Cecil Leonard stated the 3% applied to the total annual budget, the way it is worded now, not much of a reserve; really don't have a 3% reserve. Council has the ability to call an emergency under section 405. Mr. Cotta had a question for the Town Administrator/Treasurer, how much was the CBDG grant, \$300,000? Do you reserve 3% of that; do you reserve any federal monies? Answer was no.

Tom Ramotowski, does not support, landfill has 3 million in restricted reserve, questioned if that money available. Councilor Bollin said the provision should say 3% of the operating budget. Why do we have a general fund reserve if have a disaster we want to be able to touch that, can't take from landfill. Chris Cotta stated if you leave the wording as current annual budget and don't delineate then the door is open to everything. Cecil Leonard stated the CDBG was not approved at the Town Meeting and is not part of the annual budget.

President Durfee asked for any more comments regarding question #4, there being none entertained a motion to close this portion of the Public Hearing. Councilor Bollin motioned to close the Public Hearing for Question #4, seconded by Councilor Costa. The motion was then withdrawn so that question #5 could be heard as both of these questions dealt with the same topic.

Question #5

**Shall Section 310 of the Tiverton Town Charter be amended to increase the amount of general fund reserve from 3% to 5% in ¼% increments over the next eight years and clarify how the minimum reserve balance is to be managed?**

President Durfee opened the public hearing for question #5. Chris Cotta concerned about increasing fund reserve to increase taxes just to put more money in the bank, not prudent, not a service to the taxpayer. Applaud concept, should be done by ordinance, general resolution when feel Town can afford.

Cecil Leonard stated this was generated by Jim Amarantes when he was Town Treasurer, response in part by recommendation from the auditors for higher reserve amount.

**Councilor Costa made a motion to close the Public Hearing on questions #4 and #5, seconded by Councilor Medeiros. Unanimous.**

Councilor Costa then motioned for question #5 be held in reserve until time when can afford it and question #4 not be adopted and remain as is currently in Charter. Seconded by Councilor Arruda.

Councilor Bollin even though not in favor of this question, did not want to hold off the ballot. Councilor Edwards amended the motion to change the wording on question #4 to operating budget. That language is currently in Charter. Councilor Edwards motioned to return the language to 3% of the current operating budget at any time, restriction may be suspended on a case basis by an affirmative vote of 4/5 of the Town Council in order to address a declared state of emergency. Councilor Arruda seconded the motion, Solicitor Teitz said he would say 6/7 not 4/5 but Council President Durfee suggested the wording should stay 4/5. Councilor Medeiros still has “at any time by 4/5 of the Town Council during a state of emergency”. Councilor Edwards amended to remove at any time. Motion was read by Councilor Edwards.

No moneys shall be taken, withdrawn or obligated from the Unreserved General Fund if such withdrawal would cause said fund to fall below three percent (3%) of the current operating budget. This restriction may be suspended on a case basis by an affirmative vote of 4/5 of the Town Council in order to address a declared state of emergency as enacted by the Town Council. Motion passed 5-1 Councilor Bollin opposed.

Solicitor Teitz suggested a change to Section 310, on question #10, if both pass then must go with the one that has the higher majority. Councilor Edwards motioned to adopt question #4 as amended and move to the ballot, Seconded by Councilor Arruda, motion passed on a vote of 5-1, Councilor Bollin opposed.

Councilor Medeiros motioned to not go forward with question #5, seconded by Councilor Arruda motion passed on a vote of 5-1, Councilor Bollin opposed. Councilor Edwards noted that question #5 could be taken up at a Council meeting as a resolution.

**President Durfee opened the Public Hearing for question #6:**

**Shall Section 407 (13), Section 503 (5), and Section 1210 (a) be amended to clarify the Town Administrator’s role as having sole authority to hire and fire department heads?**

Councilor Arruda had initially put this proposal before CRC, however, what proposed was direct opposite of this. Proposed Dept. Heads still have a cause hearing with the Council and they would be the deciding factor. Concerned that this doesn’t allow for checks and balances, allows for a rogue Administrator to remove without. Asks that this item not go forward.

Councilor Bollin disagreed, the Town Administrator reports to the Council. Councilor Costa stated that the Council was trying to get people accountable and they should appoint department heads. Councilor Costa suggests responsibility for hiring belongs with Town Council.

Cecil Leonard argued to support either way or the other, hire and fire by Council or Town Administrator. Someone should be accountable. Ed Roderick suggests put trust in the Administrator, should not be in the background and supports this item to go forward. Peter Moniz as well supported Town Administrator for hiring and firing. Chris Cotta doesn’t support change of current system. Undercutting ability for Council to have management aspect for community they are charged with.

Laura Epke stated the Charter Commission was unanimous for the Administrator to hire/fire. Mr. Leonard raised issue of non interference by Council.

President Durfee stated the Council has not taken a position that you can’t fire, suggests it should say after consultation, believes this proposal should go forward.

**President Durfee then closed the Public Hearing for question #6.** Councilor Bollin motioned to close the public hearing, seconded by Councilor Medeiros motion to close passed unanimously.

Councilor Bollin motioned to put this on the ballot, seconded by Councilor Medeiros. Councilor Costa wished to amend the motion, as proposed by Ms. Epke to put both proposals on ballot. Actual language would need to be voted on. Solicitor could come up with language while Council continued. Councilor Costa withdrew his amendment. Original motion passed 5-1 Councilor Costa opposed.

**President Durfee opened the Public Hearing for question #7:**

**Shall Section 905 of the Charter entitled “Industrial and Recreational Development Commission” be removed?**

President Durfee asked for any public comments regarding question #7, there being none entertained a motion to close this portion of the Public Hearing. Councilor Bollin motioned to close the Public Hearing for Question #7, seconded by Councilor Medeiros. Motion passed unanimously.

Councilor Bollin motioned to move to the ballot Question #7, seconded by Councilor Edwards, motion passed unanimously.

**President Durfee opened the Public Hearing for question #8:**

**Shall Article X, Boards and Commissions, Section 1011 General Qualifications, of the Tiverton Town Charter be amended to limit members of town boards or commissions to electors that are not elected officials or employees of the town?**

Chris Cotta, in conflict with question #9, except as provided in Section 1213 regarding vacancies. Solicitor Teitz stated some problem with the term committee, clerk and administrator appointed to several committees. Councilor Bollin for positions called for in Charter.

Cecil Leonard, this language already applies under several sections, etc, just want to be consistent. Motion will read Members of boards, Committees or Commissions must be electors of the Town of Tiverton. No members of B/C/C as listed in this Charter shall be elected officials or employees of the Town of Tiverton, RI except as provided in section 1213.

Councilor Costa motioned to close public hearing. seconded by Councilor Bollin. Passed unanimously. Councilor Bollin motioned to place question #8 on ballot with removal of word “committee”, seconded by Councilor Edwards. Motion passed 5-0-1, Councilor Costa abstained.

**President Durfee opened the Public Hearing for question #9**

**Shall Section 1213 of the Tiverton Town Charter be amended to allow an elected official to temporarily fill a vacant appointed position?**

Councilor Bollin motioned to close public hearing and move question to ballot, seconded by Councilor Edwards. Motion passed unanimously.

**President Durfee opened the Public Hearing for question #12**

**Shall the Town Charter be amended to prohibit the use of Town resources to influence the outcome of a voting contest?**

Mr. Michael Burk concerned that role of school committee member duty to make action consequences be known. Discussions on Town property could also be restricted and question constitutionality and statutorily. Has responsibility to advocate.

Councilor Edwards suggest intent to limit public funds to influence such as note home to influence election. Councilor Bollin not trying to stifle, just don’t want Town funds or equipment to further position since not all have opportunity to get to that same audience.

Councilor Durfee had asked ACLU lawyer from first amendment standpoint. Distributed letter to Council. Proposal is overly broad. Free speech is issue. Attorney stated problem is first amendment can be challenged on face without having to wait to be applied to particular set of facts.

Councilor Medeiros concern with use of language influence and who would be defining influence. Feel language too broad, concept good, need to narrow down. Mr. Caron gave proposal several weeks ago and asked Council to correct if necessary. Response to Mr. Burk, give information to Town Clerk and have published. Proposal does nothing to prevent citizen group of using town buildings. Public hearings and meetings that lead up to the ballot question are not the voting contest. Using Town

resources could push budget that gets you raise. Not duty of Town officials or employees that should properly be decided by town body. Regarding free speech if paid for by taxpayer. Proposal does not in any way abridge official or employees right of free speech, only prohibit use of town resources to influence vote.

Councilor Bollin read suggestion of legal changes to proposal by Town Solicitor. Motioned to include on ballot with changes proposed by Town Solicitor.

Solicitor Teitz, language suggested be cut was clearly unconstitutional and over broad. Mr. Denine raised good questions. First amendment can be challenged on face. Conclusion has concerns as far as saying illegal or not illegal. Has concerns could be problematic and could be in expensive federal court battle.

Scott Humphrey understands everyone’s position, came from last FTM. Frustration more people second meeting and didn’t have resource to gather that many residents. Don’t want to step on first amendments but want equal resources for opposing message.

Cynthia Nebergal wishes to second Mr. Humphrey’s remarks. Don’t think should be worried about what may never come to pass. No possibility of trampling on first amendment rights. Did see unfair advantage at FTM and realized town resources used. Urge to support putting on ballot.

Mr. Roger Bennis suggested language be added to line four unless such resources to majority of electors. Richard Joslin concerned with civil liberties of this questions, don’t feel need to send to everyone. Responsibility to targeted office.

Mr. Caron repeated only if influencing the outcome of a vote. Had previously gone to Board of Elections and was told to refer to Town’s charter.

Town Solicitor, neither encourage or discourage elector voting, clearly unconstitutional. This would not prohibit school department from using system, etc but not say how to vote. One should either abandon completely or amend by dealing with what issue is. Instead of general language, say use telephone system.

Councilor Bollin motioned to close public hearing, seconded by Councilor Medeiros, passed unanimously.

Councilor Bollin motioned to but Question #12 on ballot with recommendation of Town Solicitor, seconded by Councilor Edwards. Passed 4-2 Councilors Medeiros and Durfee opposed.

Councilor Durfee opened public hearing on Question #13

**Shall the Charter be amended to require the Town Council and School Committee to make public the details of any tentative agreement requiring approval of that body at least 3 days prior to the meeting at which the approval vote is to be taken?**

Councilor Medeiros requested additional language “labor or collective bargaining” as recommended by Town Solicitor “

Mr. Leonard stated in support, need to start with contracts.

Councilor Medeiros motioned to close public hearing, seconded by Councilor Edwards. Passed unanimously.

Councilor Medeiros motioned to move to ballot, seconded by Councilor Edwards with alteration by Town Solicitor and adding in word final. Motion passed 5-1 Councilor Durfee opposed.

**ADJOURNMENT:**

Councilor Bollin motioned to adjourn, seconded by Councilor Costa. Motion passed unanimously.

Council adjourned at approximately 11:00 p.m.

A True Copy.

ATTEST: \_\_\_\_\_  
Nancy L. Mello, Town Clerk